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(Original Signature of Member)

110TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To amend the Federal Food, Drug, and Cosmetic Act with respect to liability  
under State and local requirements respecting devices.

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. PALLONE (for himself and Mr. WAXMAN) introduced the following bill;  
which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Federal Food, Drug, and Cosmetic Act with  
respect to liability under State and local requirements  
respecting devices.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Medical Device Safety  
5       Act of 2008”.

1   **SEC. 2. LIABILITY UNDER STATE AND LOCAL REQUIRE-**  
2                   **MENTS RESPECTING DEVICES.**

3           (a) AMENDMENT.—Section 521 of the Federal Food,  
4   Drug, and Cosmetic Act (21 U.S.C. 360k) is amended by  
5   adding at the end the following:

6           “(c) NO EFFECT ON LIABILITY UNDER STATE  
7   LAW.—Nothing in this section shall be construed to mod-  
8   ify or otherwise affect any action for damages or the liabil-  
9   ity of any person under the law of any State.”.

10          (b) EFFECTIVE DATE; APPLICABILITY.—The amend-  
11   ment made by subsection (a) shall—

12               (1) take effect as if included in the enactment  
13               of the Medical Device Amendments of 1976 (Public  
14               Law 94–295); and

15               (2) apply to any civil action pending or filed on  
16               or after the date of enactment of this Act.